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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,281	02/13/2002	Junko Ami	219178US2RD	3511

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EXAMINER

SEFCHECK, GREGORY B

ART UNIT PAPER NUMBER

2616

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,281

Applicant(s)

AMI ET AL.

Examiner

Gregory B. Sefcheck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 and 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 and 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- Applicant's Amendment filed 2/1/2006 is acknowledged.
- Claims 1, 2, and 5-11 have been cancelled.
- Claim 4 has been amended.
- Claims 3 and 4 remain pending.

Specification

1. The abstract of the disclosure is objected to because the first sentence is incomplete. Correction is required. See MPEP § 608.01(b).

Allowable Subject Matter

2. The indicated allowability of claims 3 and 4 is withdrawn in view of the newly discovered reference(s) to Klausmeier et al. (US006483854B1). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 3 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Klausmeier et al. (US006483854B1), hereafter Klausmeier.

- In regards to Claims 3 and 4,

Klausmeier discloses a method of transmitting ATM data. Referring to Fig. 1, Klausmeier shows that user data is passed down from higher layers as it is processed for transmission (Col. 1-2, lines 59-4). Klausmeier shows that the data is processed from variable length into fixed length cells and header information is added to each cell before being transmitted into the network to a destination (Col. 1, lines 47-50).

Referring to Fig. 2, Klausmeier shows a processor operable to queue the data, prior to transmission into the network, based on a requested class of service according to the header information of the packet (Col. 3-4, lines 59-33; Col. 5, lines 38-47; claim 3 – specifying a service class requested by a packet exchanged from upper layer in a predetermined area of a payload header of a base band packet; claim 3 – determining service class requested by packet based on the header; claim 3 – distributing base band packet to one of a plurality of buffers corresponding to specified service class depending upon determination; claim 4 – transmitting base band packet in one of plurality of buffers to another communication device corresponding to specified service class).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Kalkunte et al. (US 20020051448A1)
- Wang et al. (US006999416B2)
- Epps et al. (US006977930B1)
- Goren et al. (US006882623B1)
- Shinohara (US006721324B1)
- Ishida (US006556572B1)
- Kilkki et al. (US006549938B1)
- Araya et al. (US006473434B1)
- Li (US006215767B1)
- Kilkki et al. (US006167030A)
- Shon (US005499238A)
- Bray (US005487061A)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory B. Sefcheck whose telephone number is 571-272-3098. The examiner can normally be reached on Monday-Friday, 8:00am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GBS *GBS*
8-24-2006

Seema S. Rao
SEEMA S. RAO 8/30/06
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600